

DEPARTMENT OF TREASURY  
INTERNAL REVENUE SERVICE-CRIMINAL INVESTIGATION  
AND  
DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

IN THE MATTER OF:  
Microsoft Corporation

SETTLEMENT AGREEMENT  
AND RELEASE OF CLAIM  
TO PROPERTY

Microsoft Corporation, by its' undersigned attorney, pursuant to board of directors' authority granted its chief executive officer or duly-authorized officers, and the United States Attorney's Office for the Eastern District of Missouri (hereinafter, the "United States") enter into this Settlement Agreement and Release of Claim to Property (the "Agreement").

1. Microsoft Corporation shall (a) direct, at the time it executes this Agreement, or thereafter as directed by the United States, a wire transfer payable to the United States Marshal Service in the amount of Four and a Half Million U.S. Dollars (\$4,500,000.00); (b) shall relinquish all rights to the funds represented by the wire transfer; and (c) shall not then or thereafter contest the forfeiture of those funds to the United States.

2. The Federal Bureau of Investigation (FBI) and the Internal Revenue Service - Criminal Investigation (IRS-CI) shall immediately seize the funds the wire transfer represents and implement uncontested administrative forfeiture proceedings against those funds, with the wire transfer being immediately deposited into an appropriate U.S. Marshals Service holding account until the administrative forfeiture is finalized, at which time the funds will be directed into one or more appropriate United States forfeiture funds, pursuant to the law, for use or distribution in accordance with law.

3. Microsoft Corporation shall irrevocably contribute \$7.5 Million U.S. Dollars to the International Center for Missing and Exploited Children (ICMEC) to establish a fund to assist ICMEC with its international mission. Such payment shall be made at such time, place

and manner as directed by ICMEC. Further, Microsoft Corporation agrees to provide (a) an online, public service advertising campaign to inform and educate a target audience comprised predominantly of college level or younger persons that online gambling enterprises are illegal under U.S. law, (b) said campaign to run over a period of three years commencing in the first quarter of calendar year 2008, and (c) said campaign's advertising to have a fair market value of not less than Nine Million U.S. Dollars (\$9,000,000.00). Specifically, Microsoft Corporation agrees that it shall: (a) provide to the United States audience for Microsoft Corporation's Internet-based advertising, a three (3) year-long campaign of public service advertising to inform and educate said audience that offshore/foreign gambling enterprises conducting, in whole or part, online or telephonic sports bookmaking and casino-type gambling activities in the United States violate federal and state laws, and as do United States-based gamblers using those wagering services; (b) design and implement said advertising campaign using professional, experienced Microsoft Corporation advertising/marketing staff having the same purpose of maximizing exposure, effectiveness and efficiency of advertising as is customarily employed by Microsoft Corporation for its most valued advertising clients; and (c) ensure that it provides advertising in this campaign having a fair market value of at least three million dollars per year for three consecutive years, beginning as directed above in paragraph 3, and calculated (excluding creative services) at Microsoft Corporation's standard book rate offered to and paid by its most valued advertising clients, with the advertising to be prominently displayed, and placed among Microsoft Corporation's media, and at times, using Microsoft Corporation's best professional efforts to inform relevant demographic groups and to deter illegal activity, in the same fashion as if Microsoft Corporation was being paid by its most valued advertising clients to most effectively conduct this three-year campaign. Microsoft Corporation will provide to the United States at the end of each of the years of this campaign a written summary and accounting of its efforts. Any successor entity to Microsoft Corporation shall fulfill any portion of this Agreement's public service advertising commitment that has not been completed as of the date

the successor entity acquires Microsoft Corporation. Failure by any successor entity to fulfill this commitment will result in breach of this Agreement.

4. The above-described payments, obligations and forfeiture to the United States constitute a full and complete settlement and adjustment of the differences of the parties to this Agreement regarding the forfeitability, and amount of forfeitable funds, resulting from the conduct of Microsoft Corporation involving its' alleged acceptance, processing and use of payments received for advertising on-line gambling activities in the United States from, or attributable to, on-line gambling businesses operating in violation of state or federal law. The alleged agreement and course of conduct upon which this forfeiture rests occurred during and between approximately 1997 and June 2007 in the Eastern District of Missouri, and elsewhere. In particular, the United States alleges and Microsoft Corporation neither contests nor admits, that on or about, and during, that time period, Microsoft Corporation, received payments from, or attributable to, on-line gambling businesses for advertising in the United States on-line gambling activities, which affected interstate and foreign commerce, the transmission and receipt of which funds the business operators knew, or should have known, were derived from criminal offenses, or funds intended to be used to promote or support unlawful activity, including violations of the Federal Wire Wager Act, of federal wagering excise tax laws, and of various states' statutes and municipal laws prohibiting gambling, either outright or absent regulation, licensing and/or taxation by the particular states and municipalities. The United States will move for the forfeiture of these funds as being proceeds involved in, derived from, and facilitating criminal conduct and forfeitable to the United States pursuant to federal law, including Title 18, United States Code, Section 981, et seq., and related regulations, and Microsoft Corporation shall not contest this forfeiture. These funds are represented in full by the Four and a Half Million U.S. Dollars (\$4,500,000.00) payment described above, the forfeiture of which to the United States is the object of all parties to this Agreement, and the fair market value of the in-kind, on-line public service advertising campaign herein and the irrevocable contribution described in paragraph 3. The United States and Microsoft Corporation agree to the

mutual release of all non-tax civil claims and defenses the parties might otherwise have asserted in administrative or judicial forfeiture proceedings based upon the conduct described herein. Nothing in this Agreement is intended to limit any defenses that Microsoft Corporation or its successor entity(-ies), if any, may have in any other proceedings.

5. Microsoft Corporation acknowledges that this agreement may be made public by the U.S. Attorney for the Eastern District of Missouri. Microsoft Corporation expressly agrees that it shall not through attorneys, directors, agents, officers, employees or otherwise make any public statement in any public forum contradicting the terms of the Agreement, except in connection with the defense(s) of any subsequent legal or administrative proceedings. Any such contradictory public statement by Microsoft Corporation or its attorneys, directors, agents, officers, employees or otherwise shall constitute a breach of this Agreement and the United States would then not be bound to limit its forfeiture proceedings based upon Microsoft Corporation's conduct described above, at paragraph 4, to the sums described in that paragraph, nor would the United States have any obligation to return all or part of the forfeited funds. Upon the United States' notifying Microsoft Corporation of a public statement by any such person that in whole or part contradicts a statement of fact contained in this Agreement, Microsoft Corporation may avoid a breach of this Agreement by publicly repudiating such statement within seven (7) calendar days after notification by the United States.

6. The United States Attorney's Office for the Eastern District of Missouri has determined that since it formally notified Microsoft Corporation of the United States' intent to forfeit funds, Microsoft Corporation has approached the issues raised by that notice in a laudable, cooperative and conciliatory manner and has assisted in, and promised to continue to assist in, investigations conducted by the United States and its law enforcement agencies.

7. Microsoft Corporation agrees that it shall: (a) provide to the United States, on request, and in accordance with applicable laws and pursuant to presentation of proper legal process, any relevant non-privileged testimony, documents, electronic data or other object in its possession, custody or control concerning any matters pertaining to possible criminal violations

involving: Transmission of Wagering Information, Unlicensed Money Transmitting Business, Racketeer-Influenced Corrupt Organization activity, the Bank Secrecy Act, or the evasion and/or accurate determination, assessment and collection of federal wagering excise and/or federal income tax(es). Microsoft Corporation shall (a) whenever such data is in electronic format, provide access to such data and assistance in operating computer and other equipment as necessary to retrieve the data; and (b) completely, fully and timely comply with all legal obligations, record keeping and reporting requirements imposed upon it by federal statutes and implementing regulations.

8. The United States agrees that Microsoft Corporation shall be released from all presently known to the United States, criminal and civil liability to the United States, including the United States Department of Justice, arising from the conduct described in paragraph 4 herein. Should the United States determine that Microsoft Corporation or its directors, officers and employees have committed (a) any federal crime not described by the conduct alleged in paragraph 4, above, or (b) any federal crime alleged in paragraph 4 but outside the time period set out therein, or (c) any federal crime not entirely and presently revealed to the United States by evidence now in its possession as a result of the investigation resulting in the forfeiture described herein, then Microsoft Corporation or its directors, officers and employees shall in the sole discretion of the United States thereafter be subject to prosecution for, and/or to forfeitures based upon, any federal crimes of which the United States has knowledge, excluding forfeitures based upon the conduct described in paragraph 4 above. Nothing in this Agreement limits the criminal, civil, and/or forfeiture liability of any natural person for any criminal act committed at any time.

9. This Agreement is binding on Microsoft Corporation, any successor entity, and the United States, but except as noted in paragraph 8 above, specifically does not bind any state or local authorities, although the United States will bring its assessment of any cooperation of Microsoft Corporation and its compliance with obligations under this Agreement to the attention of the state or local prosecuting offices or regulatory agencies, if requested in writing by

Microsoft Corporation, or its attorneys. The government will not seek forfeiture of additional funds from Microsoft Corporation based on the conduct alleged in paragraph 4, provided that Microsoft Corporation satisfies its obligations under this Agreement.

10. This Agreement does not relate to, or address or cover any criminal conduct or forfeiture liability by any entity or natural person other than Microsoft Corporation's conduct or liability as expressly described herein.

11. The parties agree that upon its signing by all parties, through representatives indicated below, this Agreement shall be made public; however, due to on-going federal criminal and forfeiture investigations or prosecutions relating to persons and entities not described in this Agreement, identities and details of such persons' and entities' conduct will not be publicly released by any of the parties, unless pursuant to court order, court rule, or by the United States publicly filing and conducting criminal and/or forfeiture proceedings, or entering into other settlement Agreement(s).

12. This Agreement sets forth all the terms of the Settlement Agreement and Release of Claim to Property between Microsoft Corporation and the United States. No promises, agreements, or conditions have been entered into other than those expressly set forth in this agreement. This Agreement supersedes any prior promises, agreements or conditions between Microsoft Corporation and the United States concerning the specific matters and events described. The undersigned represents and warrants to the Government that he has the authority to enter into this Agreement on behalf of the Company.

ACKNOWLEDGMENTS

I, Richard Wallis, the duly-authorized representative of Microsoft Corporation hereby expressly acknowledge the following: (1) that I have discussed this Agreement with the client; (2) that I have fully explained each one of its terms to such client; (3) that I have fully answered each and every question put to me by my client regarding the Agreement; and (4) that I believe my client completely understands and agrees to all of the Agreement's terms.

<u>11/5/07</u> Date:	 _____ RICHARD WALLIS  Attorney for Microsoft Corporation, a corporation
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ON BEHALF OF THE GOVERNMENT

	 _____ United States Attorney's Office for the Eastern District of Missouri
	CATHERINE L. HANAWAY United States Attorney
<u>11-1-07</u> Date	By: _____ JULIA M. WRIGHT Assistant United States Attorney